

HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.865 of 2005

Date of decision : 3.11.2006.

Rattna S/o Gonda and another

.....Petitioners

versus

Bhagta s/o Rugha through Lrs.

.....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.R.P.Dhir, Advocate for the petitioners.

Mr.Sandeep Bansal, Advocate for the respondents.

* * *

ORDER

HEMANT GUPTA, J. (Oral)

The defendants are in revision petition aggrieved against the order dated 18.1.2005, passed by the learned trial Court, whereby a Local Commissioner was appointed to demarcate the site in dispute and to record whether any portion of Taur No.14 has been encroached by the defendant or not.

Learned counsel for the petitioners has vehemently argued that in previous litigation it has been found that there is no encroachment. The said finding is recorded on the basis of the report of the Local Commissioner and another Local Commissioner could not have been appointed in the present suit.

I do not find any illegality and irregularity in the order passed by the learned trial Court to appoint a Local Commissioner to demarcate the site in dispute. The question whether the previous judgment and decree are relevant and to what extent, is to be decided by the learned trial Court after

the parties complete their evidence including the evidentiary value of the report of the Local Commissioner. However, the appointment of Local Commissioner is not a ground which may be interfered by this Court in exercise of its revisional jurisdiction.

Dismissed in limine.

November 3, 2006
**mohinder*

(HEMANT GUPTA)
JUDGE